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NOT TO BE PUBLISHED

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

ROCK LEONARD, Petitioner and Appellant, v. BECKY RICE et al., Defendants and Respondents.	C090238 (Super. Ct. No. 187716)

This is a personal injury action arising out of a rear-end automobile collision in Redding. Following a four-day trial, a jury returned a verdict for the defense, finding that defendant Becky Rice was negligent but her negligence was not a substantial factor in causing the damages sought by plaintiff Rock Leonard.

On appeal, Leonard contends that reversal is required for a number of reasons, including that a new trial should have been granted due to discovery misconduct.

Disagreeing, we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND

The Traffic Accidents and Pleadings

In July 2015, Becky rear-ended Leonard, who was stopped at a traffic light in Redding at the intersection of Highway 273 and Breslauer Way.[1] Becky was driving a 2002 BMW 530i and Leonard was driving a "lifted" 2006 GMC Sierra truck. The collision occurred in the mid-afternoon around 2:00 or 3:00 p.m.

Approximately two weeks later, Becky died in an unrelated automobile accident on Interstate 5. Becky's car, which was owned by her husband, Stephen Rice, was totaled in that accident.

In June 2017, Leonard filed this personal injury action against Becky, alleging that his truck was damaged and he was injured as a result of Becky's negligence. In October 2017, Stephen and Becky's estate were added as defendants, with Stephen named as the personal representative of the estate.

In November 2017, Stephen and Becky's estate filed an answer, which generally denied each and every allegation in the complaint, and further denied that Leonard had been damaged "to the extent alleged or to any other extent." The answer asserted seven affirmative defenses and prayed that Leonard "takes nothing."

In April 2019, the "Estate of Rebecca Lynn Carter-Rice, Deceased" was substituted as a defendant in place of Becky's estate.

The Trial

A jury trial was held over the course of four days in late April and early May 2019. Four witnesses testified, including Leonard. He was the only percipient witness to the rear-end collision and the events that occurred immediately thereafter.

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[1] Because Becky and her husband Stephen Rice share the same last name, we refer to them hereafter by their first names.

Leonard's theory was that the rear-end collision was serious, resulting in damages to his truck and significant injuries to his person, including pain to his lower back, chronic tinnitus (i.e., ringing in the ears), and numbness in his left thigh. At trial, Leonard explained that the collision occurred when he was stopped at a traffic light in Redding; the light had just turned green and there were two cars in front of him. According to Leonard, the force of the collision caused his truck to move forward several feet and he "felt like the wind had been knocked out of [him]." He claimed that, following the collision, Becky told him she was traveling around 45 to 50 miles per hour at the time of impact. He also claimed that his bumper (including the attached trailer hitch) was "tucked underneath the truck," and that he observed "steam" coming out of the front of Becky's car and a "tear or rip in the hood" caused by his trailer hitch. Leonard left the scene without calling the police after he and Becky exchanged information and she indicated that she did not need any help and did not want him to call the police. Around 20 or so minutes later, Leonard drove past the scene and saw Becky's car being "hooked up" to a tow truck. When asked, Leonard explained that he felt nauseous that evening and started to feel pain in his neck and back. The ringing in his ears began the next day.

In support of his negligence claim, Leonard introduced photographs of his truck and an invoice showing that the estimated cost to repair his truck was $1,099.23.[2] Leonard also introduced medical evidence, including evidence showing that he visited an emergency room in Shasta County approximately one month after the collision, complaining of a sore throat and chest pain. Leonard did not elicit any testimony from an emergency room doctor or nurse; instead, he relied on the testimony of his medical expert, Jeffrey Grolig, M.D., whom he saw for the first time in November 2018 (more

[2] When asked by his counsel, Leonard stated that he did not pay for his truck to be repaired. As noted below, the jury was instructed that Leonard only sought certain damages for Becky's negligence, which did not include the cost to repair his truck.

than three years after the collision), to establish that his alleged injuries were caused by Becky's negligence. On cross-examination, Dr. Grolig acknowledged that he began treating Leonard only after he was retained as an expert in this case.

It is undisputed that Leonard did not seek medical treatment immediately following the collision. Instead, he saw a chiropractor about a week later. Leonard was last seen by his chiropractor (who did not testify at trial) in February 2016. When asked, Leonard explained that he did not seek medical treatment for his tinnitus until December 2018, after Dr. Grolig directed him to do so. Leonard also explained that he had worked in the construction industry for many years, did not have medical insurance at the time of the collision, and had been involved in "another incident" in July 2017 where he landed on his tailbone and injured his neck.

The defense theory was that Becky was negligent but that her negligence was not a substantial factor in causing the injuries alleged by Leonard. In support of its position, the defense maintained that the rear-end collision was not nearly as serious as Leonard claimed. At trial, Stephen testified that Becky drove her car home after the collision, and that he only observed a slight or surface scratch on the front bumper. Stephen explained that the scratch was three inches "at most" and was barely visible. Due to the fatal automobile accident involving Becky that occurred shortly after the rear-end collision, no photographs of Becky's car were introduced at trial. Aside from Stephen's and Leonard's testimony, there was *no* direct evidence as to the severity of the damage to Becky's car from the rear-end collision.

In closing argument, Leonard's counsel maintained that the evidence presented at trial showed that Becky's negligence caused the injuries alleged by Leonard. In making this argument, counsel relied on, among other things, the photographs of Leonard's truck, the repair estimate, and the medical evidence, including Dr. Grolig's testimony.

In response, defense counsel urged the jury to find that Becky's negligence was not a substantial factor in causing Leonard's alleged injuries, arguing that it was unlikely

the collision occurred at the speed Leonard claimed given the minor damage to his truck, as shown by the photographic evidence. In making this argument, defense counsel insisted that the outcome of this case "really [came] down to credibility," and that "common sense" and the photographic evidence did not support Leonard's version of events. Defense counsel further asserted that Dr. Grolig was not credible, characterizing him as a "hired gun" who was only called as a witness to be an "advocate" on behalf of Leonard and to tell "one side of the story." In support of this argument, defense counsel pointed out that Dr. Grolig saw Leonard for the first time after he was retained as an expert in this case, more than three years following the accident. Defense counsel also questioned Leonard's failure to elicit testimony from any other person who had treated him for his alleged injuries (i.e., emergency room doctor, audiologist, chiropractor), and suggested that Leonard's injuries could have been caused by him "working construction for 30 years."

Jury Instructions and Verdict

Prior to deliberations, the jury was instructed that Leonard was only seeking the following damages: (1) economic damages for past and future medical expenses; and (2) non-economic damages for past and future physical pain, mental suffering, loss of enjoyment of life, physical impairment, inconvenience, grief, anxiety, and emotional distress.

In May 2019, the jury returned a verdict for the defense, finding that Becky was negligent but that her negligence was not a substantial factor in causing the damages sought by Leonard. Thereafter, judgment was entered in favor of defendants.

Postjudgment Motions

Leonard filed several postjudgment motions, including a motion to reopen discovery, a motion for new trial, and a motion for judgment notwithstanding the verdict. Among other things, Leonard argued that the defense had intentionally "suppressed" and/or "hid" evidence, and that Stephen had provided false and intentionally misleading

answers to form interrogatories, which misled Leonard to believe that the defense did not dispute that he was injured in the collision (i.e., the defense did not dispute the causation element of his negligence claim). As an example, Leonard pointed to Stephen's answer and supplemental answer to Judicial Council form interrogatory No. 15.1 (interrogatory 15.1), which asked Stephen to identify all the facts and persons who had knowledge of the facts supporting each affirmative defense and each denial of a material allegation in the complaint. According to Leonard, because the material allegations in the complaint included an allegation that Becky's negligence was the proximate cause of his alleged harm, Stephen did not respond truthfully to interrogatory 15.1, since he failed to identify himself as a person who had knowledge of facts supporting the denial of the causation allegation.

The trial court denied Leonard's postjudgment motions in two separate written orders issued in July 2019. As relevant here, the trial court determined Leonard had failed to show that any evidence had been suppressed or that he had been purposefully misled by discovery responses to believe that the issue of causation was not contested.[3] The court concluded the record did not support a finding that defense counsel "did anything wrong related to discovery" and "undermine[d] any allegation that [Leonard] was somehow surprised at trial." While the court found that Stephen's answer to interrogatory 15.1 was incomplete, as it only addressed affirmative defenses and did not address the material allegations in the complaint, the court also noted that Stephen's incomplete answer was subject to a motion to compel a further response but no such

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[3] The trial court also found that, contrary to Leonard's contention, a California Department of Motor Vehicle accident report form prepared by Stephen's insurance agent, which indicated that Leonard had been injured in the accident and Becky's car had sustained damages over $750, was "not an admission by Defendants' authorized agent and did not relieve [Leonard] of his burden of proof." The court explained: "Ultimately, [Leonard] was still required to prove that Defendant was responsible for the accident and that [Leonard] was in fact injured in the accident."

motion was filed. The court further noted that Leonard offered no explanation for his failure to depose Stephen. In rejecting Leonard's contention that a new trial was warranted because he was "surprised" at trial when the defense disputed the causation element, the court found: "[Leonard] has not established that something unforeseen happened since there was never a reversal of Defendants' position related to causation. [Leonard] has also failed to establish that the alleged surprise could not have been prevented through reasonable diligence . . . . [Leonard's] counsel admitted he could have done more in discovery including taking the deposition of [Stephen], the only other percipient witness to the condition of [Becky's] car after the accident, but failed to do so."[4]

The Appeal

Leonard timely appealed after the trial court denied his motions for new trial and judgment notwithstanding the verdict. After multiple continuances of the briefing by both parties, the case was fully briefed on January 21, 2022, and assigned to this panel shortly thereafter. The parties waived argument and the case was submitted in April 2022.

Leonard primarily contends that reversal is required due to discovery misconduct. Among other things, he argues that the trial court should have ordered a new trial on this basis.

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[4] In denying Leonard's motion for new trial, the trial court stated that, given the "nominal damage" to Leonard's truck, it was "well within the jury's purview" to reject the testimony that Becky was traveling 45 to 50 miles per hour at the moment of impact.

DISCUSSION

I

Generally Applicable Legal Principles and Standard of Review

Where a party appeals from a judgment, they may also challenge the denial of a new trial motion associated with that judgment. (See *Walker v. Los Angeles County Metropolitan Transportation Authority* (2005) 35 Cal.4th 15, 18.)

A trial court may grant a new trial on any of several statutory grounds, including, as relevant here, irregularity in the proceedings, surprise, and newly discovered evidence. (Code Civ. Proc., § 657, subds. (1), (3) & (4).)[5] As a general matter, the denial of a motion for new trial is reviewed for abuse of discretion, with the appellate court making an independent determination as to whether any error was prejudicial. (*Aguilar v. Atlantic Richfield Co.* (2001) 25 Cal.4th 826, 859; *Nazari v. Ayrapetyan* (2009) 171 Cal.App.4th 690, 693-694.) However, "any determination underlying [the new trial] order is scrutinized under the test appropriate to such determination." (*Aguilar*, at p. 859; see *Tun v. Wells Fargo Dealer Services, Inc.* (2016) 5 Cal.App.5th 309, 323 [new trial order predicated on issue of statutory interpretation reviewed de novo].)

The most fundamental rule of appellate review is that the judgment or order challenged on appeal is presumed to be correct, and it is the appellant's burden to affirmatively demonstrate error. (*Jameson v. Desta* (2018) 5 Cal.5th 594, 608-609; *Denham v. Superior Court* (1970) 2 Cal.3d 557, 564.) " 'In the absence of a contrary showing in the record, all presumptions in favor of the trial court's action will be made by the appellate court.' " (*Jameson*, at p. 609.)

The burden to affirmatively show error requires more than a mere assertion that the judgment is wrong. " '[T]o demonstrate error, an appellant must supply the reviewing court with some cogent argument supported by legal analysis and citation to

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[5] Further undesignated statutory references are to the Code of Civil Procedure.

the record.' [Citation.] 'We are not obliged to make . . . arguments for [appellant] [citation], nor are we obliged to speculate about which issues counsel intend to raise.' [Citations.] We may and do 'disregard conclusory arguments that are not supported by pertinent legal authority or fail to disclose the reasoning by which the appellant reached the conclusions he wants us to adopt.' " (*Hernandez v. First Student, Inc*. (2019) 37 Cal.App.5th 270, 277.)

Even when an appellant cites general legal principles in support of certain arguments, these principles do not in and of themselves demonstrate error. "Mere suggestions of error without supporting argument or authority other than general abstract principles do not properly present grounds for appellate review. The court is not required to make an independent, unassisted study of the record in search of error. The point is treated as waived and we pass it without further consideration." (*Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd.* (2002) 100 Cal.App.4th 1066, 1078; see *Cahill v. San Diego Gas & Electric Co.* (2011) 194 Cal.App.4th 939, 956 [" 'Appellate briefs must provide argument and legal authority for the positions taken. "When an appellant fails to raise a point, or asserts it but fails to support it with reasoned argument and citations to authority, we treat the point as waived." ' "]; *Keyes v. Bowen* (2010) 189 Cal.App.4th 647, 655-656 [matters not properly raised or that lack adequate legal discussion will be deemed forfeited].)

In addition, an appellant must "[s]tate each point under a separate heading or subheading summarizing the point, and support each point by argument and, if possible, by citation of authority." (Cal. Rules of Court, rule 8.204(a)(1)(B).) "This is not a mere technical requirement; it is 'designed to lighten the labors of the appellate tribunals by requiring the litigants to present their cause systematically and so arranged that those upon whom the duty devolves of ascertaining the rule of law to apply may be advised, as they read, of the exact question under consideration, instead of being compelled to extricate it from the mass.' " (*In re S.C.* (2006) 138 Cal.App.4th 396, 408.) When an

appellant fails to comply with the requirements of rule 8.204(a)(1)(B) of the California Rules of Court, the party has not properly briefed its contentions on appeal, and " 'we need not address contentions not properly briefed.' " (*Winslett v. 1811 27th Avenue LLC* (2018) 26 Cal.App.5th 239, 248, fn. 6; see *ibid.* ["Arguments not raised by a separate heading in an opening brief will be deemed waived"]; see also *Pizarro v. Reynoso* (2017) 10 Cal.App.5th 172, 181 [it is not our responsibility to act as counsel and attempt to arrange a party's arguments coherently; failure to provide coherent organization of arguments forfeits consideration of those arguments on appeal].)

An appellant has the burden not only to show error but prejudice from that error. (Cal. Const., art. VI, § 13.) If an appellant fails to satisfy that burden, his argument will be rejected on appeal. (*Century Surety Co. v. Polisso* (2006) 139 Cal.App.4th 922, 963.) "[W]e cannot presume prejudice and will not reverse the judgment in the absence of an affirmative showing there was a miscarriage of justice." (*Ibid*.)

II

Alleged Discovery Misconduct

Leonard contends reversal is required due to discovery misconduct. He argues that a new trial should have been granted because Stephen intentionally provided misleading, false, and incomplete answers to form interrogatories, which misled Leonard on the issue of causation and resulted in an unfair trial due to surprise. Leonard adds in a related argument that the trial court erred in denying his motion in limine F, which sought an order prohibiting the defense from arguing that he was not injured in the collision due to Stephen's discovery responses. Finally, Leonard contends the trial court erred in denying his request for an evidentiary hearing concerning Stephen's knowledge as to the condition of Becky's car following the rear-end collision. We reject these contentions.

A. *Deficient Briefing*

Preliminarily, we find Leonard's opening brief to be insufficient on several grounds, and he failed to file a reply brief. As a general matter, Leonard's opening brief

is not coherently organized in a manner that allows us to easily ascertain the facts and rule of law applicable to each claim of error. Leonard fails to identify the specific legal errors the trial court allegedly committed under a separate heading and support each claim of error with cogent legal analysis and citation to applicable authority. For example, Leonard claims that a new trial should have been granted due to discovery misconduct, but he fails to identify and discuss the specific statutory grounds he relied on in moving for a new trial on that basis. Nor does he provide any legal analysis explaining how the trial court erred in denying his motion for new trial under the applicable standard with citation to pertinent authority. Instead, he insists the trial court should have granted his motion in limine F, which sought an order preventing the defense from arguing that he was not injured in the collision due to Stephen's failure to claim as much in response to Judicial Council form interrogatory No. 16.2 (interrogatory 16.2). However, given Leonard's deficient briefing, we conclude that he has forfeited appellate review of this issue, as well as his claim that a new trial was warranted due to discovery misconduct and his claim that the trial court erred in denying his request for an evidentiary hearing. In any event, as we explain next, Leonard has not met his burden of establishing reversible error. (*Jameson v. Desta, supra*, 5 Cal.5th at p. 609.)

B. *Motion for New Trial*

Although it is not entirely clear, we construe Leonard's motion for new trial as claiming that a new trial was warranted under section 657, subdivisions (1), (3), and (4), because Stephen "lied" in his answers to form interrogatories and "hid" evidence (photographs of Becky's car). Thus, according to Leonard, a new trial should have been ordered due to irregularity in the proceedings, surprise, and newly discovered evidence.[6]

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[6] In his motion for new trial, Leonard did not specifically argue that Stephen's testimony about the condition of Becky's car following the rear-end collision was "newly discovered" evidence. Rather, he accused the defense of hiding this evidence, and argued

In support of his motion for new trial, Leonard relied on Stephen's answers to interrogatory 15.1 and interrogatory 16.2. As previously indicated, interrogatory 15.1 asked Stephen to identify all the facts and persons who had knowledge of the facts supporting each affirmative defense and each denial of a material allegation in the complaint. In his answer and supplemental answer, Stephen stated that he was not aware of any facts supporting his affirmative defenses, but noted that investigation and discovery were ongoing and that he reserved the right to supplement his answer. Stephen's answers did not address the material allegations in the complaint; he did not identify any facts or any person with knowledge of facts supporting the denial of any material allegation in the complaint. As for interrogatory 16.2, it asked Stephen whether he contended that Leonard was *not* injured in the "incident" and, if so, to state the facts supporting his contention and the persons with knowledge of such facts. Stephen's answer and supplemental answer were similar. As relevant here, Stephen's supplemental answer stated: "Defendant's investigation and discovery continue, and thus, Defendant is not presently in a position to provide a full and complete response to this interrogatory. . . . [A]ssuming 'incident' refers to the motor vehicle collision of July 10, 2015, Defendant responds as follows: No such contention is made at this time. Investigation and discovery continue and Defendant reserves the right to supplement this response." Stephen's supplemental answers to the form interrogatories were mailed to defense counsel in early December 2018, approximately five months before trial commenced in late April 2019.

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that such conduct resulted in an unfair surprise at trial, which ordinary prudence could not have guarded against. As for newly discovered evidence, Leonard speculated that the defense had "hidden" photographs of Becky's car. Without elaboration, Leonard stated: "[I]t appears likely that there are photographs of [Becky's] vehicle that should have been produced in this action, but were not." On appeal, Leonard does not argue that the trial court should have ordered a new trial based on the "likely" existence of such photographs.

On this record, we see no error in the trial court's denial of Leonard's motion for new trial. At most, the record shows that Stephen's answers to interrogatory 15.1 and interrogatory 16.2 were evasive and/or incomplete. As we explain next, Leonard's remedy was to seek relief prior to trial pursuant to the rules and procedures governing pretrial discovery, not wait until trial and then claim unfair surprise when the defense took a position inconsistent with his interpretation of the answers.

Section 2030.220, subdivision (a) requires that each answer to an interrogatory be "as complete and straightforward as the information reasonably available to the responding party permits."

California discovery law authorizes a broad range of sanctions for conduct amounting to "misuse of the discovery process," including issue and evidentiary sanctions. (§ 2023.030, subds. (a)-(e); *Cedars-Sinai Medical Center v. Superior Court* (1998) 18 Cal.4th 1, 12; *Siry Investment, L.P. v. Farkhondehpour* (2020) 45 Cal.App.5th 1098, 1116-1117 [a trial court may preclude the admission of evidence or deem specific issues established or prohibit a party from raising opposing claims or defenses], review granted July 8, 2020, S262081.) As relevant here, misuse of the discovery process includes "[m]aking an evasive response to discovery." (§ 2023.010, subd. (f).)

When a responding party provides an evasive or incomplete answer to an interrogatory, the propounding party must first file a motion to compel a further response before moving for the imposition of an issue or evidentiary sanction. (*Saxena v. Goffney* (2008) 159 Cal.App.4th 316, 334 (*Saxena*); see § 2030.300, subds. (a)(1) & (e).) And the failure to timely file a motion to compel a further response to an evasive or incomplete answer constitutes a waiver of any right to a further response. (§ 2030.300, subd. (c); see *Vidal Sassoon, Inc. v. Superior Court* (1983) 147 Cal.App.3d 681, 685 [trial court lacks jurisdiction to order further answers if a timely motion to compel is not made].) " '[T]he burden is on the propounding party to enforce discovery. Otherwise, no penalty attaches

either for the responding party's failure to respond or responding inadequately.' " (*Saxena*, at p. 334.)

In the absence of a violation of an order compelling discovery, evidentiary or issue sanctions may only be imposed for willful and flagrant discovery abuses, such as giving a willfully false answer to an interrogatory. (*Saxena*, *supra*, 159 Cal.App.4th at p. 334; *Mitchell v. Superior Court* (2015) 243 Cal.App.4th 269, 272; *Biles v. Exxon Mobile Corp.* (2004) 124 Cal.App.4th 1315, 1327 & fn. 8.)

Here, to the extent Leonard believed that Stephen's discovery responses amounted to misuse or flagrant abuse of the discovery process, his remedy was to file a motion for an order compelling further responses or a motion for discovery sanctions, which he did not do. In short, Leonard has not met his burden to demonstrate that the trial court erred in denying his motion for new trial. He has not shown that there was an "irregularity in the proceedings" that prevented a fair trial. (See *Montoya v. Barragan* (2013) 220 Cal.App.4th 1215, 1229-1230 ["An 'irregularity in the proceedings' is a catchall phrase referring to any act that (1) violates the right of a party to a fair trial and (2) which a party 'cannot fully present by exceptions taken during the progress of the trial, and which must therefore appear by affidavits' "].) Nor has Leonard shown that Stephen's testimony about the condition of Becky's car following the rear-end collision was a "surprise" he could not have guarded against with ordinary prudence or that there was "newly discovered" evidence that he could not have discovered with reasonable diligence prior to trial. (See *Sherman v. Kinetic Concepts, Inc*. (1998) 67 Cal.App.4th 1152, 1161 [new evidence for purposes of a motion for new trial is "material" evidence (i.e., evidence likely to produce a different result) which could not, with reasonable diligence, have been discovered and produced at trial]; *Hata v. Los Angeles County Harbor/UCLA Medical Center* (1995) 31 Cal.App.4th 1791, 1806 ["surprise" in the context of a motion for new trial denotes some condition or situation in which a party is unexpectedly placed to his detriment, which he or she could not have prevented or guarded against with ordinary

prudence], disapproved on another ground in *Quigley v. Garden Valley Fire Protection Dist.* (2019) 7 Cal.5th 798, 815, fn. 8.)

We reject Leonard's suggestion that the discovery he conducted in this case was adequate, such that he was unfairly surprised at trial by Stephen's testimony. Given that Becky was involved in a serious and fatal automobile accident shortly after the rear-end collision giving rise to this case, Stephen was among the limited group of people who could have possessed knowledge about the condition of Becky's car following the rear-end collision. Indeed, in his answer and supplemental answer to Judicial Council form interrogatory No. 7.1, Stephen stated that the front bumper of Becky's car had been damaged in the rear-end collision. Under the circumstances, a prudent lawyer would have made a sufficient inquiry to determine the extent of Stephen's knowledge about the condition of Becky's car and whether there was a dispute about the severity of the collision and the issue of causation. Leonard, for his part, failed to offer a satisfactory explanation as to why he did not depose Stephen or use other forms of discovery (e.g., requests for admissions) to determine whether the defense disputed the causation element. (See *Murillo v. Superior Court* (2006) 143 Cal.App.4th 730, 735-736 [requests for admissions differ fundamentally from other forms of discovery in that they seek to eliminate the need for proof rather than seeking to uncover information].)

C. *Motion in Limine F*

We find no merit in Leonard's contention that reversal is required because the trial court erred in denying his motion in limine F, which, as we have noted *ante*, sought an order preventing the defense from arguing that he was not injured in the collision based on Stephen's failure to claim as much in response to interrogatory 16.2. The trial court properly denied this motion, as neither of Stephen's answers to interrogatory 16.2 conceded that Leonard was injured in the collision. To the extent Leonard's motion can be construed as seeking an issue or evidentiary sanction based on Stephen's inadequate discovery responses (including his answers to interrogatory 15.1 and interrogatory 16.2),

no such sanction was warranted here.[7] There was no violation of a court order compelling further discovery responses. And Leonard does not point to anything in the record showing that Stephen provided a willfully false discovery response. (*Saxena*, *supra*, 159 Cal.App.4th at p. 334; *Mitchell v. Superior Court*, *supra*, 243 Cal.App.4th at p. 272; *Biles v. Exxon Mobile Corp.*, *supra*, 124 Cal.App.4th at p. 1327 & fn. 8.) For this reason, we find Leonard's reliance on *Thoren v. Johnston & Washer* (1972) 29 Cal.App.3d 270, misplaced. *Thoren* provides authority for excluding evidence based on a willfully false discovery response. It does not, however, stand for the proposition that evidence may be excluded based on an evasive or incomplete discovery response. (See *id*. at pp. 272-275 [excluding testimony where interrogatory answer omitting witness's name was not merely incomplete, but "willfully false"].)

D. *Evidentiary Hearing*

We reject Leonard's cursory contention that reversal is required because the trial court erred in denying his request for an evidentiary hearing (Evid. Code, § 402) concerning Stephen's knowledge as to the condition of Becky's car following the rear-end collision. According to Leonard, "[i]mproper surprise by the testimony of . . . [Stephen] would have been avoided if the trial court had allowed a brief voir dire or 402 examination of [Stephen]." We see no error or prejudice. Indeed, Leonard fails to explain, and we cannot envision, how a different result more favorable to him would have been obtained had an evidentiary hearing been held prior to Stephen's testimony.

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[7] On appeal, Leonard asserts that his motion in limine F was based on Stephen's answers to interrogatory 15.1, interrogatory 16.2, and Judicial Council form interrogatory No. 16.5. However, the record reflects that Leonard only specifically relied on Stephen's answers to interrogatory 16.2.

III

Remaining Issues

We conclude that the remaining contentions raised by Leonard are forfeited due to his failure to properly raise and/or adequately brief them. (*Hernandez v. First Student, Inc*., *supra*, 37 Cal.App.5th at p. 277; *Winslett v. 1811 27th Avenue LLC*, *supra*, 26 Cal.App.5th at p. 248, fn. 6; *Pizarro v. Reynoso*, *supra*, 10 Cal.App.5th at pp. 179-181; *Keyes v. Bowen*, *supra*, 189 Cal.App.4th at pp. 655-656.) With one exception, his arguments are not raised by a separate heading, and all of the arguments amount to mere suggestions of error without sufficient supporting argument or authority. For example, Leonard contends the trial court erred in denying his motion for judgment notwithstanding the verdict, but he makes no effort to show that insufficient evidence supports the verdict; his opening brief provides no discussion of this issue. (*Cabral v. Ralphs Grocery Co.* (2011) 51 Cal.4th 764, 770 [" 'A motion for judgment notwithstanding the verdict may be granted only if it appears from the evidence, viewed in the light most favorable to the party securing the verdict, that there is no substantial evidence in support' "].) Similarly, Leonard provides no reasoned argument and citation to authority in support of his contention that the trial court committed evidentiary error by denying his request to allow the jury to hear the sound he "hears all the time in his head due to his tinnitus." Moreover, we fail to see how Leonard suffered any prejudice from the trial court's ruling, as the jury rejected his contention that his alleged injuries, including tinnitus, were caused by Becky's negligence. Finally, Leonard provides no argument or authority supporting his conclusory contention, raised for the first time on appeal, that monetary sanctions are warranted because the "conduct of Respondents and their counsel in this matter has been unethical, immoral and contrary to law." (See

Perez v. Grajales (2008) 169 Cal.App.4th 580, 591-592 ["arguments raised for the first time on appeal are generally deemed forfeited"].)[8]

DISPOSITION

The judgment is affirmed. Defendants shall recover their costs on appeal. (Cal. Rules of Court, rule 8.278(a).)

/s/
Duarte, J.

We concur:

/s/
Robie, Acting P. J.

/s/
Renner, J.

[8] We note that Leonard accuses defense counsel of violating multiple in limine rulings and suggests that such conduct constitutes professional misconduct. Leonard also claims that he was prejudiced by defense counsel's violation of the trial court's ruling on his motion in limine D, and points to other rulings "of perhaps lesser magnitude" that, "combined with other events" support reversal. For the same reasons we discuss at length above, Leonard has forfeited any claim of error related to these issues.